

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MAKITA U.S.A. INC. and
MAKITA CORPORATION,

Plaintiffs,

v.

BLACK & DECKER INC. and
BLACK & DECKER (U.S.) INC.

Defendants.

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C.A. No. _____

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT AND
DECLARATORY JUDGMENT**

Plaintiffs, Makita U.S.A. Inc. and Makita Corporation (collectively "Makita"), complain of defendants Black & Decker Inc. and Black & Decker (U.S.) Inc. as follows:

JURISDICTION AND VENUE

1. The claim for patent infringement herein arises under the patent laws of the United States, Title 35, United States Code. § 1, *et seq.* This Court has exclusive jurisdiction over the subject matter of the claim for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

2. The claim for declaratory judgment herein arises under the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, and the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.* This Court has jurisdiction over the subject matter of the claim of declaratory judgment under 28 U.S.C. §§ 1331, 1338(a), 1367(a), and 2201, *et seq.*

3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) & (c) and 1400(b).

THE PARTIES

4. Makita U.S.A. Inc. is a California corporation having its principal place of business at 14930 Northam Street, La Mirada, California 90638.

5. Makita Corporation is a company organized under the laws of Japan, with a place of business at 3-11-8 Sumiyoshi-cho, Anjo, Aichi 446-8502, Japan.

6. Black & Decker Inc. is a Delaware corporation having its principal place of business at 701 East Joppa Road, Towson, Maryland.

7. Black & Decker (U.S.) Inc. ("Black & Decker U.S.") is a Maryland corporation also having its principal place of business at 701 East Joppa Road, Towson, Maryland.

COUNT I - PATENT INFRINGEMENT

8. Makita Corporation is the sole owner of United States Patent No. 6,213,224 entitled "Electric Power Tool With Enhanced Strength to Axially-Applied External Force," duly issued on April 10, 2001 (the "224 Patent") (Exhibit A attached hereto).

9. The 224 Patent is directed to electric power tools and related components.

10. Upon information and belief, Black & Decker U.S. has infringed and is continuing to infringe the 224 Patent by making, using, offering to sell, selling and/or importing multi-speed drills from the DeWALT line of electric power tools, including, but not limited to Model Nos. DW987K2, DC988AA, and DW988K2. Upon information and belief, Black & Decker U.S. will continue to infringe Makita's patent unless enjoined by this Court. Such acts of infringement have been and are continuing to be committed in this judicial district and elsewhere in the United States.

11. Upon information and belief, Black & Decker U.S., through its actions, has contributed to, or induced infringement of the 224 Patent in violation of 35 U.S.C. § 271. Upon

information and belief, Black & Decker U.S. will continue to contribute to, or induce infringement of Makita's patent unless enjoined by this Court.

12. By its infringement, contributory infringement and/or inducement to infringe the 224 Patent, Black & Decker U.S. has injured Makita and Makita is therefore entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

13. Black & Decker U.S. had knowledge of Makita's patent, and has therefore infringed Makita's patent willfully and deliberately, thereby rendering this case exceptional under the United States patent laws.

COUNT II - DECLARATORY JUDGMENT

14. Upon information and belief, Black & Decker Inc. owns U.S. Patent Nos. 6,984,188 (the "188 Patent"), 7,220,211 (the "211 Patent") and 7,223,195 (the "195 Patent").

15. Black & Decker Inc. has alleged that Makita infringes, contributes to the infringement and/or induces others to infringe the 188, 211 and 195 Patents and Makita denies that allegation. Accordingly, an actual controversy exists between Black & Decker Inc. and Makita.

16. Makita does not infringe and has not infringed the 188, 211 and 195 Patents directly, contributorily or by inducement.

17. One or more claims of the 188, 211 and 195 Patents are invalid for failure to satisfy the requirements of Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 102, 103 and/or 112.

WHEREFORE Makita U.S.A. Inc. and Makita Corporation pray that this Court:

A. Adjudge and decree that Black & Decker U.S. has directly or indirectly infringed one or more claims of the 224 Patent;

B. Preliminarily and permanently enjoin Black & Decker U.S., its officers, agents, servants, employees, successors, assigns, affiliates, subsidiaries and all related entities and others in active concert with Black & Decker U.S. from continuing to infringe the 224 Patent;

C. Order Black & Decker U.S. to pay damages sustained by Makita by reason of Black & Decker U.S.'s infringement of the 224 Patent, together with interest and costs;

D. Adjudge and decree that infringement of the 224 Patent by Black & Decker U.S. has been willful and deliberate, and award Makita increased damages pursuant to 35 U.S.C. § 284;

E. Adjudge and decree that Makita is not infringing and has not infringed any claim of the 188 Patent;

F. Adjudge and decree that Makita is not infringing and has not infringed any claim of the 211 Patent;

G. Adjudge and decree that Makita is not infringing and has not infringed any claim of the 195 Patent;

H. Adjudge and decree that one or more claims of the 188 Patent are invalid;

I. Adjudge and decree that one or more claims of the 211 Patent are invalid;

J. Adjudge and decree that one or more claims of the 195 Patent are invalid;

K. Award Makita attorney's fees and costs pursuant to 35 U.S.C. § 285 and/or any other appropriate provision of law; and

L. Award such further relief as this Court deems just and proper.

JURY DEMAND

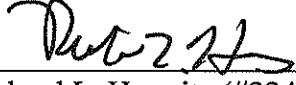
Makita hereby demands, pursuant to Fed. R. Civ. P. 38, a trial by jury on all issues so triable.

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8151161/ 32149

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and Makita Corporation*

EXHIBIT A

US006213224B1

(12) **United States Patent**
Furuta et al.(10) **Patent No.:** **US 6,213,224 B1**
(45) **Date of Patent:** **Apr. 10, 2001**(54) **ELECTRIC POWER TOOL WITH
ENHANCED STRENGTH TO AXIALLY-
APPLIED EXTERNAL FORCE**(75) Inventors: **Takefumi Furuta, Anjo; Shingo
Umemura, Okazaki; Shinsuke Mori,
Takahama, all of (JP)**

4,479,555	*	10/1984	Grossman et al.	173/171
4,730,134	*	3/1988	Sistare	310/50
5,049,012	*	9/1991	Cavedo	408/241 R
5,339,908	*	8/1994	Yokota et al.	173/216
5,531,278	*	7/1996	Lin	173/216
5,624,000	*	4/1997	Miller	173/217

FOREIGN PATENT DOCUMENTS(73) Assignee: **Makita Corporation, Anjo (JP)**

59-52298	12/1984	(JP)
4-59112	9/1992	(JP)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

* cited by examiner

Primary Examiner—Peter Vo
Assistant Examiner—Jim Calve(21) Appl. No.: **09/334,352**(74) *Attorney, Agent, or Firm*—Foley, Hoag & Eliot LLP(22) Filed: **Jun. 16, 1999**(30) **Foreign Application Priority Data**

Jun. 17, 1998 (JP) 10-170304

(51) **Int. Cl.**⁷ **E21B 3/00**(52) **U.S. Cl.** **173/217; 173/170; 173/216**(58) **Field of Search** 173/217, 216,
173/171; 310/176, 170, 47, 50; 408/241 R(56) **References Cited****U.S. PATENT DOCUMENTS**

3,491,840	*	1/1970	Haviland et al.	173/216
3,734,207	*	5/1973	Fishbein	173/217
3,829,721	*	8/1974	Rosenthal, Jr.	310/47
3,908,139	*	9/1975	Duncan, Jr.	173/217
3,959,677	*	5/1976	Grieb	310/50
4,366,403	*	12/1982	Simpson et al.	310/50

(57) **ABSTRACT**

An electric power tool is provided including a main housing (2) assembled by fitting together right and left casing halves (3, 4), a drive unit (5), a spindle (14) coupled to the drive unit, and a change ring (20). The drive unit includes a DC motor (6), a gear assembly (7), and first and second gear cases (9, 15). The aluminum-alloy second gear case (15) is provided with a connecting portion (17) which has an outer shape that smoothly and continuously connects with the front end of the main housing and which is secured to the main housing by four screws (24) in the axial direction toward the rear portion of the tool. In addition, the second gear case includes a small-diameter journal bearing (16) which extends forwardly from the front end of the connecting portion (17) within the change ring so as to support the spindle of the tool.

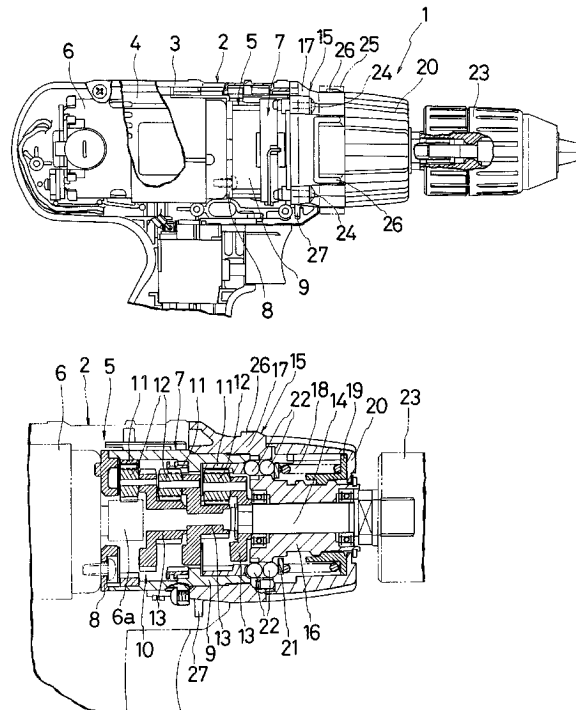
15 Claims, 3 Drawing Sheets

Fig 1

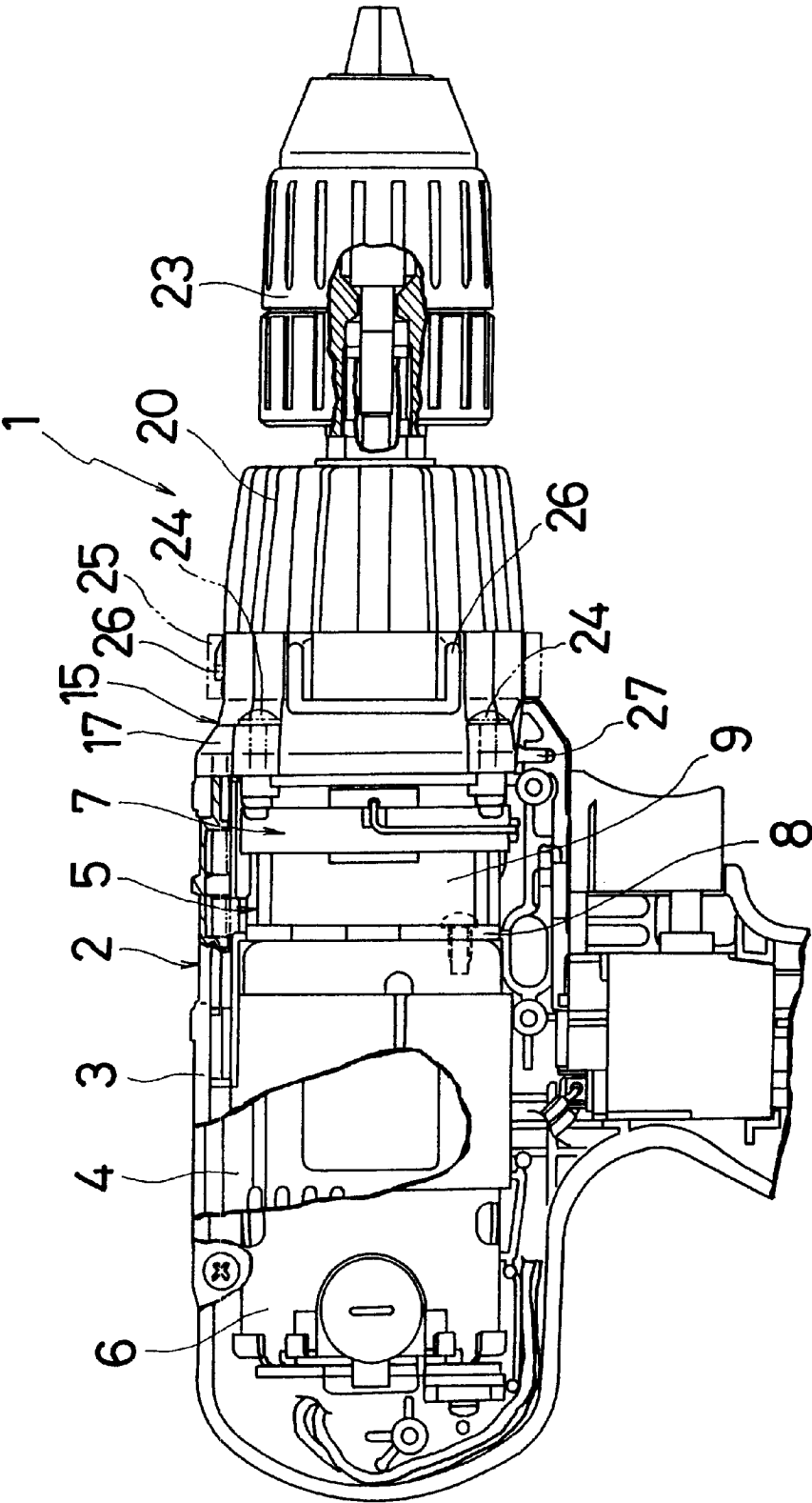


Fig 2

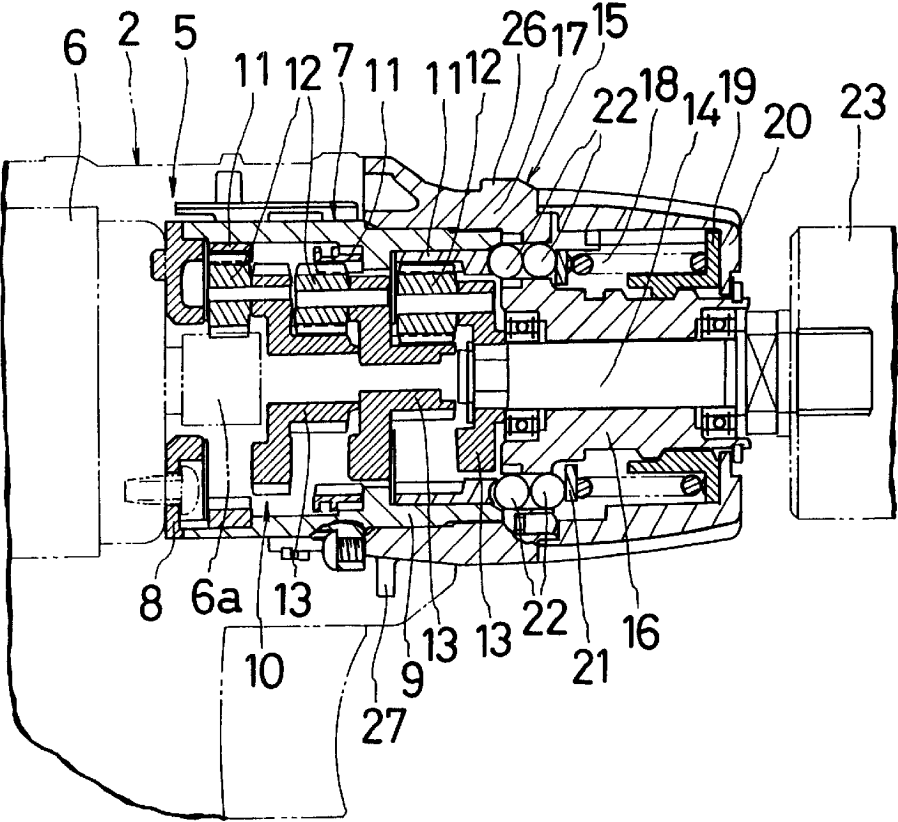
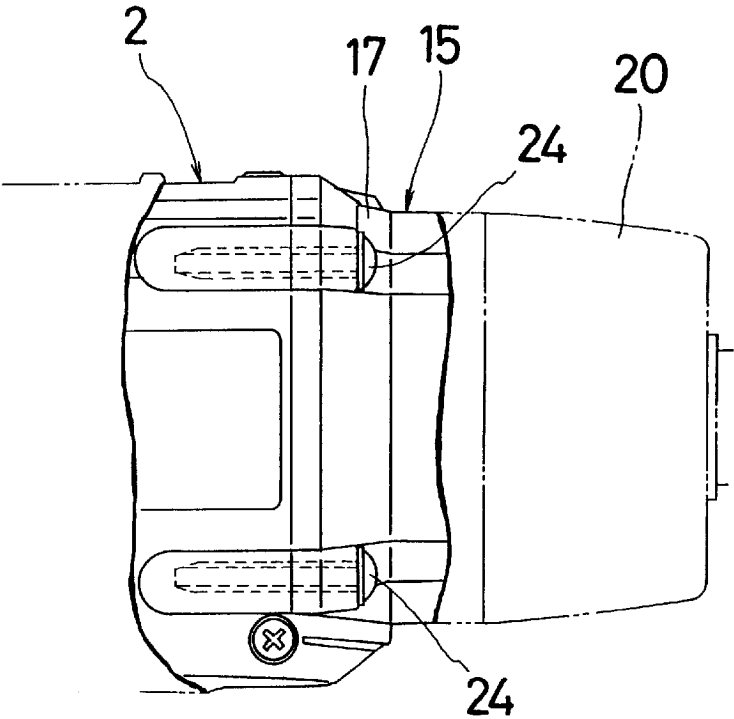


Fig 3



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**ELECTRIC POWER TOOL WITH
ENHANCED STRENGTH TO AXIALLY-
APPLIED EXTERNAL FORCE**

This application claims priority on Japanese Patent Application No. 10-170304, the contents of which are incorporated herein by reference.

BACKGROUND OF THE INVENTION

1. Field of the Invention

The present invention relates to electric power tools. More particularly, the present invention relates to an electric power tool which has a split two-part housing for encasing a drive unit that includes a motor and a reduction mechanism for transmitting the rotation of the motor to a spindle protruding toward the top end of the tool.

2. Description of the Related Art

Various power screwdrivers and screwdriver/drills have been known in the art, as disclosed in Japan Published Examined Patent Application Nos. S59-52298 and H4-59112, both of which include a description of a split two-part housing made of synthetic resin that encloses a drive unit. Furthermore, the drive unit includes a motor and a reduction mechanism which is coupled to the motor by means of screws and transmits the rotation of the motor to a spindle protruding toward the top end of the housing. Additionally, a torque setting adjuster and a chuck are mounted on the part of the spindle protruding from the front of the housing.

When this arrangement is applied to an electric power screwdriver as in the above examples, the tool is subjected to a large force acting in the axial direction of the spindle when the tool bit is pressed against a screw or other workpiece. The split two-part housing made of synthetic resin sometimes fails to withstand the force, with the result being that the spindle and the housing become distorted or warped. This may in turn adversely affect gear engagement in the reduction mechanism and thus normal rotation of the spindle.

SUMMARY OF THE INVENTION

In view of the above-identified problems, an important object of the present invention is to provide an electric power tool with sufficient rigidity such that the tool can effectively withstand a large axial force applied thereto.

Another object of the present invention is to provide an electric power tool that can maintain normal rotation of the spindle when subjected to a large axial force.

The above objects and other related objects are realized by the invention, which provides an electric power tool, comprising: a spindle having an axis; a drive unit including a motor and a reduction mechanism for transmitting the rotation of the motor to the spindle of the tool; and a housing having a front end for containing the drive unit. In this tool, a portion of the drive unit is made of metal, with the metal portion of the drive unit exposed to the outside of the tool forward of the housing and connected to the front end of the housing. This construction imparts to the tool enhanced rigidity, particularly strength to external force applied in the axial direction, thus preventing the housing from twisting or deforming during operation. In addition, proper engagement, in the reduction mechanism is ensured so as to maintain normal torque transmission.

According to one aspect of the present invention, the metal portion of the drive unit is screwed to the front end of

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the housing in the axial direction of the spindle. This construction renders the drive unit strong enough to withstand axial external force applied to the unit.

According to another aspect of the present invention, the metal portion of the drive unit is integrally provided with a bearing portion for supporting the spindle. The integral metal bearing portion rigidly supports the spindle such that the spindle does not, easily twist or warp.

According to still another aspect of the present invention, the reduction mechanism is an epicycle reduction gear mechanism, and the drive unit includes a clutch means for interrupting the transmission of the rotation of the motor from the epicycle reduction gear mechanism to the spindle responsive to a load applied to the spindle.

According to yet another aspect of the present invention, the clutch means includes an adjusting member for adjusting the torque at which the transmission of the motor rotation to the spindle is interrupted. Furthermore, the metal portion of the drive unit is disposed between the adjusting member and the housing.

In accordance with another aspect of the present invention, the metal portion of the drive unit has a substantially cylindrical shape, and the tool optionally includes an auxiliary handle with a circular mount that can be fitted around the metal portion of the drive unit.

In a preferred embodiment, the metal portion of the drive unit may have an outer surface that is smoothly and continuously connected with an outer surface of the front end of the housing.

In another preferred embodiment, the metal portion of the drive unit is made of aluminum alloy.

To carry out the invention in one preferred mode, the housing further includes two substantially symmetrical casing halves fitted together in a plane in which the axis of the spindle is located.

Other general and more specific objects of the invention will in part be obvious and will in part be evident from the drawings and descriptions which follow.

**BRIEF DESCRIPTION OF THE ATTACHED
DRAWINGS**

For a fuller understanding of the nature and objects of the present invention, reference should be made to the following detailed description and the accompanying drawings, in which:

FIG. 1 is a partially cross-sectional side view of an essential part of an electric power screwdriver/drill according to the present invention;

FIG. 2 is a cross-sectional view of the gear assembly of the electric power screwdriver/drill of FIG. 1; and

FIG. 3 is an enlarged view of a portion of the electric power screwdriver/drill of FIG. 1, showing the connection of the second gear case to the main housing.

**DETAILED DESCRIPTION OF THE
PREFERRED EMBODIMENT**

A preferred embodiment according to the present invention will be described hereinafter with reference to the attached drawings.

FIG. 1 is a partially cross-sectional side view of an essential part of an electric power screwdriver/drill 1 which embodies the present invention. The screwdriver/drill 1 includes two split casing halves 3 and 4 screwed together to constitute a main housing 2. Enclosed within the main

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housing 2 is a drive unit 5 comprising a DC motor 6 and a gear assembly 7 disposed in front of (to the right in the drawing), and coupled to the DC motor 6. As shown in FIG. 2, the drive unit 5 further includes a cylindrical first gear case 9 which is secured to the front of a motor bracket 8 of the gear assembly 7. The motor bracket 8 is screwed to the DC motor 6. In addition, the DC motor 6 has a motor shaft 6a which protrudes into the first gear case 9. The rotation of the motor shaft 6a is transmitted to a spindle 14 of the tool 1 via an epicycle reduction gear mechanism 10 that includes three stages of an internal gear 11, a planetary gear 12, and a carrier 13, to which the gear 12 is coupled.

The drive unit 5 further includes a second gear case 15 secured to the front of the first gear case 9. The second gear case 15 is a molded aluminum alloy component, including a small-diameter journal bearing 16 supporting the spindle 14 and a large-diameter connecting portion 17 which extends rearward from the journal bearing 16 and covers the front end of the first gear case 9. A change ring 20 is fitted over the journal bearing 16 for rotatably operating a spring holder 19 that retains the front, end of a spring 18 mounted around the journal bearing 16. The rear end of the spring 18 presses against and secures the front internal gear 11 by means of a flat washer 21 and two tiers of balls 22. When the change ring 20 is manually rotated so as to screw-feed the spring holder 19 in the axial direction of the journal bearing 16, the force fixing the internal gear 11 can be adjusted so as to control the torque corresponding to the load applied to the spindle 14 at which the internal gear 11 starts to rotate idly. Reference numeral 23 indicates a drill chuck mounted at the front end of the spindle 14.

The external shape of the connecting portion 17 of the second gear case 15 is formed such that the connecting portion 17 connects smoothly and continuously with the exterior of the front end of the main housing 2. As shown in FIG. 3, the connecting portion 17 is secured to the main housing 2 by means of four screws 24 in the axial direction toward the rear portion of the tool during assembly. This also secures the drive unit 5 to the main housing 2, exposing for manual access the connecting portion 17 as well as the change ring 20 to the outside of the electric power tool 1 in front of the main housing 2. Referring again to FIG. 1, a circular mount 25 of an auxiliary handle can be fitted around the connecting portion 17. When the auxiliary handle is attached, protrusions 26 formed on the outer surface of the connecting portion 17 engage detent protrusions (not shown) formed on the inner surface of the circular mount 25 so as to prevent the rotation of the circular mount 25. Reference numeral 27 is an alignment piece fitted in the inner surface of the main housing 2 in order to position the second gear case 15 relative to the main housing 2 during assembly.

As described above, since the metal second gear case 15 is exposed and directly connected to the front end of the split main housing 2, the electric power screwdriver/drill 1 is provided with increased rigidity, making it strong enough to withstand external force applied to the tool, especially in the axial direction. Accordingly, the main housing 2 does not twist or deform when the tool bit is pressed against a workpiece with a large force to tighten screws or to drill holes, thus maintaining precise gear engagement in the epicycle reduction gear mechanism 10. This also ensures proper transmission of torque to the spindle 14. In addition, the drive unit 5 remains properly secured to the main housing 2 via the second gear case 15.

Furthermore, as the second gear case 15 is secured to the main housing 2 by the screws 24 in the axial direction of the spindle 14, the second gear case 15 is connected to the main

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housing 2 with a sufficiently high rigidity to withstand axial external force. Neither does the spindle 14, rigidly supported by the journal bearing 16 of the second gear case 15, easily become deformed or twisted. Since an auxiliary handle can be attached to the exposed second gear case 15, the operability and the work efficiency of the electric power screwdriver/drill 1 are not only greatly enhanced, but the auxiliary handle itself can also be more securely attached to the tool due to the strength of the metal gear case 15.

In the above-described embodiment, the drive unit 5 integrates the DC motor 6 and the gear assembly 7. However, the present invention is applicable to a tool in which a motor and a gear assembly may be separately assembled.

A person of ordinary skill in the art will also appreciate that the second gear case 15 need not be connected to the main housing 2 in the manner described above. Any change or alteration in the design can be made to suit any particular application. Depending on the design of the reduction mechanism 10, the connecting portion 17 of the gear case 15, for example, may have a larger diameter than that of the front end of the main housing 2 so that the connecting portion 17 partially covers the main housing 2. Alternatively, the connecting portion 17 of the gear case 15 may have a smaller diameter than that of the front end of the main housing 2 so that the main housing 2 partially covers the connecting portion 17. In the above embodiment, the second gear case 15 is connected to the main housing 2 by the axially extending screws 24; however, other means may be adopted and/or the direction of the screws can be changed to match the external force likely to be applied to the tool 1.

Those skilled in the art will also appreciate that the present invention is applicable to tools, including but not limited to electric screwdrivers and drills, other than electric screwdriver/drills as in the foregoing embodiment, so long as they are of the type in which a reduction mechanism is held between and encased in right, and left casing halves.

It will thus be seen that the present invention efficiently attains the objects set forth above, among those made apparent from the preceding description. As other elements may be modified, altered, and changed without departing from the scope or spirit of the essential characteristics of the present invention, it is to be understood that the above embodiments are only an illustration and not restrictive in any sense. The scope or spirit of the present invention is limited only by the terms of the appended claims.

What is claimed is:

1. An electric power tool, comprising:

a spindle having an axis;

a drive unit including a motor and a reduction mechanism for transmitting the rotation of the motor to the spindle of the tool, the reduction mechanism being an epicycle reduction gear mechanism, the drive unit including a clutch means for interrupting transmission of the rotation of the motor from the epicycle reduction gear mechanism to the spindle responsive to a load applied to the spindle, the clutch means including an adjusting member for adjusting the torque at which the transmission of the motor rotation to the spindle is interrupted; and

a housing for containing the drive unit, the housing having a front end, wherein a portion of the drive unit is made of metal, the metal portion of the drive unit being exposed to the outside of the tool forward the housing and the metal portion of the drive unit being connected directly to the front end of the housing, the metal

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portion of the drive unit being disposed along the spindle axis between the adjusting member and the housing.

2. An electric power tool in accordance with claim 1, wherein the metal portion of the drive unit is screwed to the front end of the housing in the axial direction of the spindle.

3. An electric power tool in accordance with claim 2, wherein the metal portion of the drive unit is integrally provided with a bearing portion for supporting the spindle.

4. An electric power tool in accordance with claim 2, wherein the housing further includes two substantially symmetrical casing halves fitted together in a plane in which the axis of the spindle is located.

5. An electric power tool in accordance with claim 3, wherein the housing further includes two substantially symmetrical casing halves fitted together in a plane in which the axis of the spindle is located.

6. An electric power tool in accordance with claim 1, wherein the metal portion of the drive unit has a substantially cylindrical shape, and further wherein the tool optionally comprises an auxiliary handle with a circular mount that can be fitted around the metal portion of the drive unit.

7. An electric power tool in accordance with claim 6, wherein the metal portion of the drive unit has an outer surface that is smoothly and continuously connected with an outer surface of the front end of the housing.

8. An electric power tool in accordance with claim 7, wherein the metal portion of the drive unit is made of aluminum alloy.

9. An electric power tool in accordance with claim 6, wherein the housing further includes two substantially symmetrical casing halves fitted together in a plane in which the axis of the spindle is located.

10. An electric power tool in accordance with claim 7, wherein the housing further includes two substantially symmetrical casing halves fitted together in a plane in which the axis of the spindle is located.

11. An electric power tool in accordance with claim 8, wherein the housing further includes two substantially symmetrical casing halves fitted together in a plane in which the axis of the spindle is located.

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12. An electric power tool in accordance with claim 1, wherein the housing further includes two substantially symmetrical casing halves fitted together in a plane in which the axis of the spindle is located.

13. An electric power tool in accordance with claim 1, further comprising a journal bearing portion integrally provided within the metal portion, the journal bearing portion having one or more bearings for supporting the spindle, the bearings being provided on an inner surface of the journal bearing portion.

14. An electric power tool in accordance with claim 1, wherein the housing further comprises a gear case surrounding the reduction mechanism, and wherein the metal portion covers a portion of the gear case.

15. An electric power tool, comprising:
a spindle having an axis;

a drive unit including a motor, a reduction gear mechanism for transmitting the rotation of the motor to the spindle of the tool, a clutch means for interrupting transmission of the rotation of the motor from the reduction gear mechanism to the spindle responsive to a load applied to the spindle, the clutch means including an adjusting member for adjusting the torque at which the transmission of the motor rotation to the spindle is interrupted, and

a housing for containing the drive unit, the housing having a front end,

wherein the drive unit includes a first gear case enclosing the reduction gear mechanism and a metal second gear case exposed to the outside of the tool forward the housing and connected to the front end of the housing, the second gear case including a journal bearing integrally provided therein for supporting the spindle, the second gear case covering a portion of the first gear case and being disposed between the housing and the adjusting member.

* * * * *

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MAKITA U.S.A. INC. and MAKITA CORPORATION,

(b) County of Residence of First Listed Plaintiff Los Angeles County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Richard L. Horwitz (#2246)/David E. Moore (#3983)
Potter Anderson & Corroon LLP
1313 N. Market Street
Wilmington, Delaware 19801 (302) 984-6000

DEFENDANTS

BLACK & DECKER INC. and BLACK & DECKER (U.S.) INC.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF ☐ DEF ☐ 1 Incorporated or Principal Place of Business In This State PTF ☐ DEF ☐ 4
- Citizen of Another State PTF ☐ DEF ☐ 2 Incorporated and Principal Place of Business In Another State PTF ☐ DEF ☐ 5
- Citizen or Subject of a Foreign Country PTF ☐ DEF ☐ 3 Foreign Nation PTF ☐ DEF ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 640 R.R. & Truck	<input checked="" type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability	PRISONER PETITIONS	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare			<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights			<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property				

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

35 U.S.C § 271 for patent infringement and 28 U.S.C. § 1338(a), and declaratory judgment under 28 U.S.C. § 2201, et seq.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions)

JUDGE Vacant Judgeship

DOCKET NUMBER

C.A. No. 1:07-cv-00461-***

DATE

08/27/2007

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

JS 44 Reverse (Rev. 12/96)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b.) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States, are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a) Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07 - 522

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

8-27-07

(Date forms issued)

W. Troy

(Signature of Party or their Representative)

Wesley Troyan

(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action